

**BOROUGH OF WESTWOOD  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
MINUTES  
November 7, 2011**

**APPROVED 12/5/11**

**1. OPENING OF THE MEETING**

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Regular Meeting of the Westwood Zoning Board.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL:**

**PRESENT:** Guy Hartman  
Christopher Owens  
Raymond Arroyo, Vice-Chairman  
William Martin, Chairman  
Eric Oakes  
Michael Bieri (arrived at 8:15 pm)  
Vernon McCoy (Alt #1)  
Matthew Ceplo (Alt #2)

**ALSO PRESENT:** David Rutherford, Esq., Board Attorney  
Louis Raimondi, Brooker Engineering,  
Board Engineer  
Steve Lydon, Burgis Associates,  
Board Planner

**ABSENT:** Robert Bicocchi (excused absence)

**4. MINUTES** - The Minutes of the 10/3/11 meeting were tabled on motion of Mr. Oakes, seconded by Mr. Owens and carried unanimously on roll call vote.

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**5. CORRESPONDENCE:**

1. Letter from Brooker Engineering dated 10/40/11 RE: Royer, 29 Eighth Avenue;

2. Letter from Brooker Engineering dated 10/19/11 RE: KMACK North, 39 Kinderkamack Road;

3. Letter from Brooker Engineering dated 10/26/11 RE: KMACK North, 40 Kinderkamack Road;

4. Letter from Brooker Engineering dated 10/24/11 RE: Peck, 28 Sixth Avenue;

5. Letter from Brooker Engineering dated 11/1/11 RE: Royer, 29 Eighth Avenue;

**6. VOUCHERS:** A motion to approve vouchers totaling \$7,140.00 was made by Mr. Arroyo, seconded by Mr. Oakes, and carried unanimously on roll call vote.

**7. RESOLUTIONS:**

**1. Diamond Academy, LLC, 169 Tillman Street - Use Variance** - Attorney Rutherford gave an overview of the application and approval. A motion for approval of the Resolution was made by Mr. Arroyo and seconded by Mr. McKoy. There were no further questions, comments or discussions. On roll call vote, Mr. Arroyo, Mr. Hartman, Mr. Oakes, Mr. McKoy, Mr. Ceplo, and Chairman Martin voted yes. Mr. Oakes was not eligible to vote, and Mr. Bieri had not yet arrived.

**8. PENDING NEW BUSINESS:**

**1. Metro PCS New York, 182 Third Avenue - Variance and Site Plan Approval** - not listed - cell tower ordinance pending review;

**9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS:**

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS  
The Board Professionals were sworn in.

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**1. KMACK North, 39 Kinderkamack Road - Variance & Site Plan Approval - Catherine Gregory, Substitute Board Planner, was present for this application.**

**2. KMACK South, 40 Kinderkamack Road - Variance & Site Plan Approval - Catherine Gregory, Substitute Board Planner, was present for this application.**

David Lafferty, Esq. represented the applicant and stated he would proceed with the application for KMACK North, 39 Kinderkamack Road, first. Mr. Rutherford reviewed the publication documents and found them to be in order. These are separate applications, but the same owner. They can stand on their own, he advised.

Background of the Site(s) - 39 Kinderkamack Road, is the site of the former Chevrolet dealer, which has been vacant for the last two years. 40 Kinderkamack Road housed the showroom lot, where cars were parked for sale. The dealership has since closed, and it is unlikely another one will open there. Many car dealerships are moving to the highway, and the same fate has fallen to Ford site.

Applicant proposes to demolish a portion of the site and create a multi-tenant retail plaza. One identified tenant is 7-Eleven, and there will be four additional retail units. They would call upon their planner at the next meeting. Tonight they will present testimony from their project architect and engineer.

Scott Lurie, 645 Lotus Avenue, Oradell, NJ, Licensed NJ Architect since 1976 was sworn in, qualified and accepted. Mr. Lurie testified that the present building sits in the LB3 Zone and is 26,288 sq. ft. lot, with an 11,516 sq. ft. building. It was an auto repair and showroom. The proposal is a 7,856 sq. ft. retail facility that will house up to five tenants. The basement is not to be used by the tenants; it is only for storage. The signage over the window will be eliminated. 39.3 parking spaces are allowed.

Questions and/or comments by the Board of Mr. Lurie followed. William Martin commented on KMACK North, they may want to shift the building over a little bit. It is not such a good idea to have activity in back of the building, but it has

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to function. The pylon sign is enormous. This is a gateway into the town so perhaps what the people look at may need to be revisited within the Master Plan guidelines. Mr. Bieri asked how could they could gain access to the basement, and Mr. Lurie responded from two overhead doors. The height of the basement ceiling was a concern. Mr. Lurie explained the basement plan is still being finished. Mr. Raimondi inquired if any consideration was given to set the building back off the corner of Crest Street. Mr. Lurie commented usually that section of the foundation would not be moved, so no consideration will be given. Mr. Oakes asked if he took elements of the Master Plan, particularly streetscape, into consideration. Mr. Hartman asked if it were possible to put a restaurant in one of the spaces, and the response was no. Also, there will be no access to the retail area from the basement. Mr. Martin noted it was a very large and busy exterior façade, and he should read parts of the Master Plan in reference to this. Further, Mr. Martin expressed concern about the space being divided into cubicles, and whatever it is being used for, must be clearly described. There was a concern that he was making the basement ceiling high. There were no interested parties with questions of the architect.

Applicant's engineer, Richard Adelsohn, PE, NJ licensed since 1990 was sworn in, qualified and accepted. Mr. Adelsohn testified. He was retained and prepared drawings based on an old survey and ordered a new survey. The Boundary and Topographic Survey, dated 4/20/11, revised 8/29/11, was marked A3. The lot is 168' x 168' deep, fronting on both Kinderkamack Road and Crest Street. He described the surrounding properties. The site is vacant and in the LB3 Zone. The existing structure is a one-story structure, with an 11,516 sq. ft. footprint. They are reducing the size of the building. A rectangular building is proposed. The Site Plan was marked A4, consisting of nine (9) pages. The application will trigger several variances, including a use variance. They are increasing the setbacks from 12.93' to 71.34'. No variance is required. The front yard setback and rear yard setback on Crest is pre-existing, non-conforming. Impervious coverage is being reduced. Exhibit A5 - Photographs - were taken by him within the last six months. Parking setback variances are also being requested, along with parking stall variances. Landscaping and lighting were described. They eliminated lights on the North side of the property, per Mr. Raimondi's suggestion. Mr. Lafferty asked

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about stormwater management and was referred to Sheet SD-3. They are cleaning up the site. Sheet SD-5 reflected the drawings on the signage. The sign would be 60 sq. ft. with room for up to four tenant names, internally illuminated. They are calling for a repair or replacement of an existing stockade fence on the South side of the property. During soil erosion process, there will be a silt fence around the site.

Questions of Mr. Adelsohn followed. Mr. Raimondi questioned the engineer about line of sight, trees, and whether the County commented on the number of driveways, there being three, all within a short distance. Mr. Raimondi had a long list of items, per his report dated 10/19/11, which they would discuss directly. Mr. Arroyo expressed concern about traffic and noted they are already nine spots short on parking. He asked if they were going to do traffic and parking studies. Mr. Lafferty suggested he provide drawings. Mr. Martin stated these comments should be taken under advisement. Mr. Hartman asked if they considered using the basement for parking. Mr. Lafferty did not feel the Board would be receptive, but if that is what the Board would consider, they would submit something. There were further questions from the Board, and the matter was open to the public for questions of the engineer. Greg Nemeck of Westwood was sworn in and stated he would like to have the fence back up, which was agreed upon. There were no further questions.

The matter was carried to the 12/5/11 meeting for a continued hearing.

**3. Peck - 18 Sixth Avenue - Variance Application -**  
Carried to 12/5/11 at the request of the applicant;

**4. Royer - 29 Eighth Avenue -** Robert J. Mancinelli, Esq. represented the applicant Dennis Royer, the owner of the premises, who was present.

William Martin asked for clarification of the wording of the ordinance relating to the garage, and asked if there were any outstanding summonses, as appears from the paperwork submitted. Mr. Mancinelli responded that may have been years ago, but there is nothing pending or outstanding. Mr. Royer went to enclose the portico. There was a new interpretation and question whether he would need a variance. There were two variances - one for the portico and one for the garage. The

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portico triggered the variance. Then Mr. Royer wanted to finish building the garage. Mr. Mancinelli commented there is nothing referenced that there is an outstanding summons. The Board has the entire file. There is a C/O for the shed from 11/19/09 from Mr. Marini. Most of the work was done three or more years ago. The fence and shed received a C/O as well.

Mr. Rutherford questioned the applicant. An impervious coverage variance is needed for the portico and garage. Mr. Mancinelli said he was taking a position that he does not need a variance for a setback for the garage. Per the ordinance there is an impervious coverage variance for the proposed addition to the garage and enclosed portico, and minimum distance of deck to garage. The Board called for a third variance for the side yard for the garage. Mr. Lydon commented Mr. Mancinelli mentioned the shed. Mr. Mancinelli commented they have no intention to enlarge it and this application has nothing to do with it. A discussion ensued.

Mr. Martin commented he would like to see the coverage brought down below 40%. Mr. Rutherford commented applicant's position was that the shed was not called out by the zoning office, and Mr. Mancinelli did not see it to be an issue as far as the zoning officer was concerned.

Mr. Martin asked if the Board wanted to proceed with the applicant or request the zoning office provide an explanation of what is in the packet. He was concerned about what document was provided to the zoning officer for the permit for the portico and garage.

Mr. Rutherford advised it would be Mr. Mancinelli and his client's call. The issue was the setback for the garage and the distance between the shed and garage.

Mr. Mancinelli asked to address the Board. All the violations Mr. Martin noted were for the pool, and those occurred in April of 2009 and corrected per the list. He received the C/O several months later. With regard to impervious coverage not being accurate, the plan reviewed by Mr. Marini was from of this year.

Mr. Martin commented we do not have the document submitted for the review. Mr. Rutherford advised all the coverage shown

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on the plan may have been work done without a C/O. Mr. Mancinelli said it would have been called out and nothing was called out in any of the denial letters. Mr. Marini did not see the plan for the shed.

Mr. Oakes commented all the time has been spent on the shed, but not on the garage being too close to the house, and the application that he is applying for should be reviewed. There are multi-parts. Mr. Hartman said he was concerned about the impervious coverage from the overall site.

Mr. Martin said we could proceed with Mr. Mancinelli, but they did not know how they would address obtaining any back ground on the impervious coverage. There was no issue with the notice per Mr. Rutherford. We would take testimony and then table the matter to December while we get qualifying information.

Mr. Mancinelli continued. The following exhibits were marked: Exhibit A3 - Photographs - consisting of three pages, with three photos on each page. Exhibit A4 - Photographs - consisting of seven pages of photos, taken by applicant.

Mr. Raimondi has questions regarding the footings and would they be saved. Mr. Martin commented he would like to hear about reducing coverage. Mr. Raimondi asked Mr. Royer if there would be a two car garage when he is done, and if so, the plan should reflect four parking spaces total. Mr. Mancinelli indicated he will ask Mr. Lantelme to correct it. The Architectural plan will be amended.

The matter was carried to 12/5/11. Mr. Rutherford advised he will write a letter to Armand Marini requesting he provide a chronology of permits, plans and copies of C/O's. He will advise Mr. Mancinelli, so that he may prepare his cross examination. Mr. Mancinelli stated he will extend the time through the next meeting at a minimum and will extend further if necessary.

**5. Brightly, 71 Goodwin Terrace - Variance Application -**  
Not scheduled; Application not yet complete;

**10. DISCUSSION:**

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**1. An Update on Master Plan Re-Examination** - Mr. Martin gave an update as to the Planning Board's discussions at the last meeting.

**11. ADJOURNMENT** - On motions, made seconded and carried, the meeting was adjourned at approx. 11:15 p.m.

**Respectfully submitted,**

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**MARY R. VERDUCCI, Paralegal**  
**Zoning Board Secretary**